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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Revision of the Commission's Rules)

To Ensure Compatibility with)

Enhanced 911 Emergency Calling Systems)

CC Docket No. 94-102

RM-8143

To: The Commission

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OCT 17 1997
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ADDITIONAL COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

Robert S. Foosaner
Vice President and
Chief Regulatory Officer

Lawrence R. Krevor
Director - Government Affairs

Laura L. Holloway
General Attorney

Nextel Communications, Inc.
1450 G. Street, N.W.
Suite 425
Washington, D.C. 20005
202-296-8111

Date: October 17, 1997

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I. INTRODUCTION

Pursuant to Section 1.415 of the Rules of the Federal Communications Commission ("Commission") and the October 3, 1997 Public Notice of the Commission,^{1/} Nextel Communications, Inc. ("Nextel") respectfully submits these Additional Comments on the Commission's wireless enhanced 911 ("E911") rules.

Since the Commission adopted its wireless E911 rules in July 1996,^{2/} the industry and the public safety community have invested considerable time and resources in preparing for the April 1, 1998 E911 Phase I implementation deadline. What has become abundantly clear, as a result of these efforts, is that the rules and regulations promulgated by the Commission -- however well-intended -- have created significant technical, operational and economic complexities and hurdles that are becoming increasingly apparent as the deadline approaches.

^{1/} Public Notice, "Additional Comment Sought In Wireless Enhanced 911 Reconsideration Proceeding Regarding Rules and Schedules," DA 97-2751, released October 3, 1997 ("Notice").

^{2/} Report and Order and Further Notice of Proposed Rule Making, 11 FCC Rcd 18676 (1996).

The lack of uniform national standards for the delivery of wireless E911 information to Public Safety Answering Points ("PSAPs") has slowed developments, resulted in additional delays and made it difficult -- if not impossible -- for carriers to fulfill the April 1, 1998 implementation requirement. Nextel, therefore, files the Additional Comments to propose a one-year delay in the implementation of basic 911 and E911 on wireless systems, to support the 18-month extension for implementation of E911 on TTY devices, and to reiterate the need for the Commission to reconsider its decision to leave E911 funding and carrier indemnity decisions to the states and localities, as well as its unrealistic and unworkable "covered Specialized Mobile Radio ("SMR")" definition.

II. DISCUSSION

A. Eliminating the Terms "Code Identification" and "Non-Code Identification" Does Not Resolve the E911 Implementation Issue

The industry's attempt to resolve the "non-code identification" terminology is a positive step towards eliminating some of the complications of wireless E911 implementation.^{3/} However, the Commission's decision to leave call-delivery choice to the individual PSAPs makes it impossible for wireless carriers to fully comply with their 911/E911 obligations, regardless of the terminology employed by the Commission. Whether labeled "all calls" and "successfully validated calls" or "non-code-identified"

^{3/} See Letter, dated September 25, 1997, from the Cellular Telecommunications Industry Association ("CTIA") et al. to Chairman Reed E. Hundt, concerning revised terminology regarding the scope of wireless carriers' E911 call delivery obligations.

calls and "code-identified calls," the industry cannot deliver both types of calls to different PSAPs from the same switch. In Ohio, for example, one Nextel switch serves some 50 different PSAPs. If 25 of those PSAPs want "all calls" and 25 want only "successfully validated calls," Nextel cannot possibly comply with both requests because wireless switches were not designed to incorporate this capability.

While the Commission may have believed that PSAP choice was in the public interest, it -- along with the industry and the public safety community -- failed to realize the technical complexities such choice would create for wireless carriers. By allowing each of the some 7,000 PSAPs or even the numerous 911 Authorities in each state to choose whether to take "all calls" or only "successfully validated calls," the Commission has made it technically impossible for carriers to fulfill their 911/E911 requirements.^{4/} Nextel asserts, therefore, that the Commission, in coordination with the wireless industry, wireless telecommunications vendors, and the Public Safety community, should establish a uniform nationwide policy on the transmission of "911" from wireless telecommunications systems. To ensure there is sufficient time to establish and implement a uniform, consistent methodology, the Commission should delay the October 1, 1997 basic

^{4/} Shifting the decision to the 911 Authority overseeing the individual PSAPs in a state will not resolve this problem since Nextel, for one, has switches in its system which cover more than one state. Thus, even if every PSAP in one state elects "all calls," the PSAPs in the adjacent state may request only "successfully authenticated calls," thereby making it impossible for Nextel to fulfill both requests.

911 deadline to October 1, 1998, and it should delay the April 1, 1998 E911 deadline to April 1, 1999.

B. Nextel Supports The 18-Month Extension of TTY Requirements

Although Nextel is working with Motorola, Inc. and other wireless providers to resolve the technological hurdles associated with the provision of TTY on digital communications systems, Nextel -- like all other digital carriers -- is not prepared to offer the service at this time. Nextel, therefore, supports the industry's request for an 18-month extension of the TTY requirement. Given the support of the speech and hearing-impaired community and the need for consistent solutions for the provision of TTY on digital wireless systems, Nextel believes that an additional 18 months is necessary to achieve practical solutions for providing service to speech and hearing-impaired individuals.

C. Additional Issues

1. The Commission Must Resolve the Definition of "Covered SMR"

For more than a year, a number of parties -- including Nextel -- have asked the Commission to clarify or reconsider its definition of a "covered SMR" provider that is subject to 911/E911 obligations.^{5/} The Commission's rules impose 911/E911

^{5/} See Petitions for Reconsideration, filed September 3, 1996 in this proceeding, by the American Mobile Telecommunications Association ("AMTA"), the Personal Communications Industry Association ("PCIA"), Geotek Communications, Inc., and Nextel; see also Letter to William F. Caton from Michael S. Hirsch of Geotek Communications, Inc., filed herein on April 14, 1997; Letter to John Cimko from Robert S. Foosaner of Nextel, filed herein on June 4, 1997; and Letter to John Cimko from Mary Brooner of Motorola, Inc., filed herein on June 12, 1997.

obligations on all SMR licensees "that hold geographic area licenses" or "who have obtained extended implementation authorizations in the 800 MHz or 900 MHz SMR service, either by waiver or under Section 90.629 of [the] rules."6/ As written, this definition encompasses services and equipment that are not designed for or intended for mass marketing to the general consumer, and that have no technical capability to interconnect with the Public Switched Telephone Network ("PSTN") or locate a caller pursuant to a particular cell site location. Nextel, therefore, reiterates herein that the Commission must clarify that the "covered SMR" definition does not include traditional, primarily-dispatch analog SMR services.

Traditional SMR systems, *i.e.*, those with only a single tower covering up to 35 miles and with limited or no interconnect capability, do not provide a calling party either of these capabilities. For those users with no interconnect capability, it is impossible to dial "911" and reach the PSTN. For those users with limited interconnection capability, the fact that there is only a single tower makes the E911 capability useless since the location of that single tower will often not be in proximity to the caller's location.7/

6/ First Report and Order at para. 81.

7/ Additionally, interconnected SMR systems have only a limited number of telephone lines that interconnect to the PSTN. The telephone numbers, moreover, are not assigned to any specific user; rather, they are assigned to the SMR system. Thus, E911 is impossible on interconnected SMR systems not only because there is only one "cell" site in which to locate the caller, but also because there is no "call-back" number for the user.

Emergency services are more readily accessible on a traditional SMR system via the system's dispatcher. Because traditional SMR services operate through a dispatcher whose duties include tracking mobile and portable users, the dispatcher is in a position to summon emergency assistance and provide more accurate location information than would be provided by the system itself. The dispatcher is in near-constant contact with the fleet, is generally aware of each user's geographic location, and can provide accurate and reliable emergency access by contacting the appropriate PSAP on behalf of the fleet member.

The application of 911/E911 to traditional SMR services has never made any sense -- from either a technological or policy viewpoint. Therefore, the Commission should resolve this issue immediately by redefining the scope of "covered SMR" to include only mass-marketed, cellular-like SMR services.

2. Funding Issues

In the Order establishing 911/E911 rules, the Commission refused to exercise jurisdiction over the cost component of E911 implementation, stating that the record did not demonstrate a need for federal cost recovery.^{8/} Nextel disagrees -- particularly as the complexities and issues related to E911 implementation become more apparent. As a nationwide provider, Nextel will be offering E911 services in all 50 states, thereby involving up to 7,000 PSAPs, and numerous counties, cities, and states, each with its own approach to funding E911. Nextel must approach or be approached by

^{8/} Order at para. 89.

each and every one of these jurisdictions, and implement their particular version of E911 funding. Wireless telecommunications billing systems are not equipped to handle such an extraordinary number of fees, taxes, and surcharges; thus, the administrative overhead of the current approach is threatening to undermine the availability of 911 service.

Some states include both a statewide funding mechanism as well as local and/or county funds.^{9/} One may be a tax based on a percentage of traffic while another is a flat fee imposed on each telephone number (within a particular area code) assigned to the carrier's customers (or perhaps, based on the billing address of each of the carrier's customers). Some fees are \$.25/customer, some are \$1.25/customer, and still others vary across the board from \$.10/customer to \$2.00/customer. Some fees are established at one level for "business" lines and another level for "residential" lines.^{10/}

Some jurisdictions ask that the monies be remitted to the State's Department of Revenue, some require remittance to the local PSAP organization and others require remittance to the city or county government agencies, with each of the assessments coming due at different times within the month. Once remitted, each

^{9/} For example, in Maryland, state law provides for a state surcharge of \$.10/access line and an additional local surcharge not to exceed \$.50/access line. The State of New Mexico also authorizes two fees -- one at the local level and one at the state level.

^{10/} The State of Louisiana, for example, imposes a charge not to exceed \$1.00/access line for residential customers and not to exceed \$2.00/access line for business customers.

jurisdiction has a different methodology for remitting those monies back to the wireless carriers for E911 cost reimbursement. All of these variables, multiplied by a thousand scenarios, overwhelms the billing system and administrative resources of wireless carriers and delays the actual implementation of E911 services.^{11/}

Given the complexities and costs involved in just collecting the funds for implementing E911 (not to mention the programs that have yet to be designed for remitting funds back to the wireless carriers to cover their costs), Nextel asserts that the record overwhelmingly supports a federal cost recovery scheme. Carriers, diligently working to implement the technical aspects of E911, are shifting valuable resources and efforts into an administrative quagmire, which is unnecessary and easily remedied through Commission intervention.

In light of the multi-state scope of nearly all wireless providers (as well as the national and regional scope of numerous carriers), the Commission should establish a single formula for funding the E911 system for wireless telecommunications services. A single fee would significantly reduce the administrative burden on wireless providers, and thereby speed up effective implementation of wireless E911. A decision to impose a national funding scheme, moreover, would be supported by the 8th Circuit

^{11/} The Commission stated in the Order that this sort of "flexibility" among the states and localities would benefit E911 implementation. On the contrary, this "flexibility" is nothing more than an unnecessary and costly maze that will slow the implementation of E911 and increase the administrative burdens and costs for wireless carriers.

Court of Appeals' recent decision recognizing the Commission's broad authority over Commercial Mobile Radio Service ("CMRS") providers and services.^{12/}

3. Liability Issues

Nextel supports other industry participants seeking carrier protection from liability for transmitting 911/E911 calls, and proposes that the Commission adopt a provision in its 911/E911 rules that would protect carriers from such liability and that would preempt all state laws to the extent they are inconsistent with the Commission's rules. This would allow states to adopt their own indemnity provisions while protecting carriers from potential liability for the failure to complete a 911/E911 call for reasons beyond the carrier's control.

^{12/} Iowa Util. Bd. v. FCC, No. 96-3321, (8th Cir. filed July 18, 1997) at fn. 21.

III. CONCLUSION

For the reasons stated herein, Nextel respectfully requests that the Commission delay implementation of 911/E911 for one year, and delays its implementation on TTY systems for 18 months.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert S. Foosaner", written over a horizontal line.

Robert S. Foosaner
Vice President and
Chief Regulatory Officer

Lawrence R. Krevor
Director - Government Affairs

Laura L. Holloway
General Attorney

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